



AILA Opposes House VAWA bill (H.R. 4970)

Manager's Amendments Do Not Fix Flaws in the Bill that Would Harm Battered Immigrants

AILA urges Congress to reject H.R. 4970, the Violence Against Women Reauthorization Act of 2012 (VAWA) (Adams, R-FL). H.R. 4970 was reported out of the House Judiciary Committee on May 8 and is anticipated to go to the House Floor on Wednesday, May 16. Even if a package of “manager’s amendments” is incorporated at the final hour, H.R. 4970 would significantly undercut the vital protections Congress enacted nearly 17 years ago for victims of domestic violence, sexual assault, and stalking.

- **H.R. 4970 would roll-back vital protections by inserting abusers back into the immigration process.** Section 801 requires USCIS officers to consider any and all evidence submitted by the perpetrator, even if such evidence is the sole, uncorroborated source of negative information about the victim. Abusers can still “report” their victims to the immigration authorities, allowing perpetrators to manipulate the immigration process.
- **H.R. 4970 discourages victims from calling the police and delays protection for domestic violence victims.**
 - H.R. 4970 would require that USCIS officers suspend adjudication of VAWA self-petitions if there is a pending investigation or prosecution of the perpetrator. The likelihood for delay will compel many victims not to report abuse to the police because triggering an investigation will put their immigration petition on hold.
 - H.R. 4970 requires USCIS officers to “consider” the fact that a report of domestic violence did not lead to an investigation or prosecution in deciding whether or not to grant relief. As a result, USCIS officers will be forced to draw uninformed conclusions about police and prosecutor actions. Many factors influence law enforcement decisions about pursuing a case, and a victim’s protection should not be affected by that decision. Many victims will choose to remain silent, rather than have their application for immigration status determined by decisions over which they have no control.
- **H.R. 4970 would create more hurdles for victims to obtain lawful status than any other applicant for immigration benefits.** Section 801 would specify in federal statute extremely detailed adjudication requirements USCIS must comply with that are unprecedented anywhere else in the INA. By making it more onerous to grant relief to victims than any other applicants, Section 801 is, in effect, penalizing victims for their abusers’ failure to help them obtain status.

- **H.R. 4970 would result in duplicative processes and unnecessary bureaucracy.** H.R. 4970 requires multiple adjudicators, multiple interviews, and the involvement of multiple USCIS offices. Not only is this wasteful and unnecessary, such a duplicative, drawn-out process will only result in victims having to wait even longer for protection and puts victims at risk.
- **H.R. 4970 would make the U-visa a *less useful and a less effective tool* for law enforcement.**
 - **Section 802** of H.R. 4970 would require that the crime be under active investigation or prosecution *at the time of certification*. However, many law enforcement agencies choose to sign U-visa certifications only *after* the prosecution is complete. This arbitrary provision would take away law enforcement flexibility to decide at what point in the process to provide a U-visa certification.
 - **Section 802** of H.R. 4970 would permit U-visa certification only in cases where the victim has provided law enforcement information that will assist in identifying perpetrator. It should be left up to law enforcement, not Congress, to determine whether a victim has assisted in their criminal investigation. In many cases, especially sexual assault, the victim is unable to help identify the perpetrator—they should not be denied protection for that reason.
- **H.R. 4970 would roll-back U-visa protections by taking away the possibility of a green card in nearly all cases.** As a result, many victims will choose to remain silent, rather than risk deportation for only a temporary reprieve. When reporting a crime will ultimately end in deportation, victims of crimes will not go to the police.
- **H.R. 4970 requires DHS officials to conduct expensive and time consuming reviews of the victims' cases that are not required in other areas of law. These wasteful reviews are motivated by unsubstantiated claims of fraud and abuse within VAWA programs.**
 - The bill's proponents cite a handful of anecdotes about fraud, but VAWA's current system of protections has saved thousands of lives. The radical changes to that system proposed by H.R. 4970 would put those same victims at greater risk.
 - In September 2011, Congressional Research Service researched immigration benefit fraud in the U visa program and *was only able to locate one press report of systematic immigration benefit fraud.*
 - The VAWA self-petition process requires supporting evidence that is carefully scrutinized to ensure that only those applications with clear merit are approved.
 - In order to even *apply* for a U visa, a crime victim must obtain a law enforcement certification signed by the department head or an authorized supervisor showing that she has been, is being, or is likely to be helpful in the investigation or prosecution of a serious crime.